

REMARKS

Previously, the Examiner required restriction to one of Group I (methods and kits for measuring expression of a particular marker associated with psoriasis or a TH-1 associated condition) or Group II (methods and kits for treating a subject with psoriasis or a TH-1 associated condition). In response, on August 26, 2002, Applicants elected Group II, namely claim 43-47.

The undersigned neglected, however, to elect a marker and so, that requirement was met on April 11, 2003 by electing squamous cell carcinoma antigen 2.

Now the Examiner is reformulating the underlying restricting requirement to Groups II(a)-II(c), where II(a) requires use of protein corresponding to the marker, II(b) requires use of antisense oligonucleotide corresponding to the marker, and II(c) requires inhibiting or enhancing expression of the gene corresponding to the marker.

Applicants, of course, are cooperating with this new requirement. However, in view of the additional (modified) Restriction grouping, Applicants are electing not squamous cell carcinoma antigen 2 but, instead, hereby elect marker ID4, identified at Table 7 (page 103) and Figure 4B.^{1/} In conformity with the new Restriction Requirement, Applicants hereby elect Group II(a). As to groups I, II(a), II(b) and II(c), no traverse is made.

As to the continued requirement for electing a single marker, traverse is made; the Examiner has not made out a prima facie case for restriction. That is, respectfully submitted, merely stating "each marker is a patentably distinct entity with unique structural characteristics" fails to comply with MPEP §§ 808.01(a) and 808.02. In particular, the statement is at best conclusory and, more to the point, irrelevant since the claims are to uses and not to the marker per se.

^{1/} For any therapeutic method, Applicants wished SCCA2. For therapeutic methods using proteins, Applicants wish ID4.

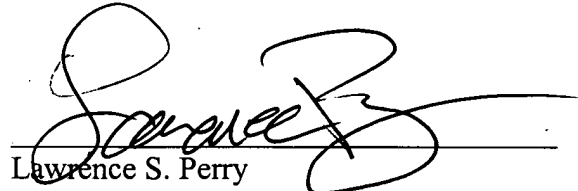
In that regard, the inventions are all plainly related, since each is directed to methods of treating psoriasis.

Accordingly, restriction among markers is appropriate only if the methods using different markers are separately classified (which they are not), if the methods using different markers have separate status in the art (which they do not), or if the methods using different markers require different fields (not particulars) of search. Which they do not. See MPEP § 808.02.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,


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